

MEMORANDUM

November 8, 2004

TO: THE LOS ANGELES COUNTY CLAIMS BOARD

FROM: LAURA INLOW
Lewis, Brisbois, Bisgaard, and Smith

ROGER H. GRANBO
Principal Deputy County Counsel
General Litigation Division

RE: Benjamin Jaramillo v. County of Los Angeles
Los Angeles Superior Court Case No. BC 307738

DATE OF
INCIDENT: October 15, 2001

AUTHORITY
REQUESTED: \$32,500

COUNTY
DEPARTMENT: Public Defender


CLAIMS BOARD ACTION:


☒ Approve

☐ Disapprove

☐ Recommend to Board of
Supervisors for Approval


_____, Chief Administrative Office
ROCKY A. ARMFIELD


_____, County Counsel
JOHN F. KRATTLI


_____, Auditor-Controller
MARIA M. OMS

on November 15, 2004

SUMMARY

This is a recommendation to settle for \$32,500, the legal malpractice lawsuit brought by Benjamin Jaramillo, who claims that his Deputy Public Defender erroneously allowed him to plead guilty to a felony drug charge, which resulted in his incarceration.

LEGAL PRINCIPLES

A Deputy Public Defender may be found liable for professional malpractice if the legal work he or she provides falls below the professional standard of care for attorneys practicing in the same field, and causes damage to the person he or she is representing.

The County is liable for the negligent and intentional acts of its employees when the acts are done in the course and scope of employment.

SUMMARY OF FACTS

Benjamin Jaramillo was arrested while in possession of marijuana, and a felony drug charge was filed against him. In November 2001, after discussing the charge with the Deputy Public Defender, Mr. Jaramillo plead guilty to the felony. He was sentenced to state prison for four years, which was suspended as part of a plea agreement pursuant to which he was placed on probation for five years and ordered to serve one year in the County Jail. He was released in July 2002.

In January 2003, Benjamin Jaramillo violated the terms of his probation, and his probation was revoked. He then began to serve the four year sentence, which initially had been suspended. Mr. Jaramillo appealed the sentence. The Court of Appeal ruled that based on the facts of his arrest, the original charge against him should not have been a felony, but a misdemeanor, which only carried a penalty of a \$100 fine. Mr. Jaramillo was released on August 25, 2003, after being incarcerated for a total of 440 days.

DAMAGES

Should this matter proceed to trial, we estimate the potential damages could be as follows:

Pain and Suffering	\$ 150,000
Loss of Earnings	<u>\$ 25,000</u>
Total	<u>\$ 175,000</u>

The proposed settlement calls for the County to pay Benjamin Jaramillo \$32,500 for all of his damages, costs, and attorney fees.

STATUS OF CASE

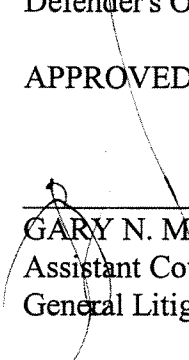
The trial court proceedings have been suspended pending consideration of the proposed settlement. Expenses incurred by the County in defense of this matter are attorney fees of \$7,320 and \$1,452 in costs.

EVALUATION

This is a case of potential liability. Benjamin Jaramillo depended on the legal counsel of the Public Defender's Office before he entered his plea to the felony. A jury could conclude that the Deputy Public Defender should have known that the crime was a misdemeanor and brought that to the Court's attention.

We join with our private counsel, Lewis, Brisbois, Bisgaard, and Smith, and our third party administrator, Carl Warren and Company, in recommending a settlement of this matter in the amount of \$32,500. The Public Defender's Office concurs in the recommendation.

APPROVED:



GARY N. MILLER
Assistant County Counsel
General Litigation Division

RHG:JAS:scr